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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/072,784	05/06/1998	BARIN GEOFFRY HASKELL		6905

7590

03/09/2005

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EXAMINER

CHEN, WENPENG

ART UNIT	PAPER NUMBER
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2624

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/072,784

Applicant(s)

HASKELL ET AL.

Examiner

Wenpeng Chen

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2624

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 04 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See the attached sheets, please. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 29,30,34,35 and 39-44.  
Claim(s) withdrawn from consideration: 1-28,31-33 and 36-38.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

Wenpeng Chen  
Primary Examiner  
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2/24/05

1. The proposed amendments have been considered. The following are the Examiner's opinions with regard to the proposed amendments.

a. The proposed amended Claim 29 overcomes the rejection to Claim 29 under 35 U.S.C. 102(e) based on Suzuki et al. (US patent 6,097,842) set forth in Final Rejection mailed on 11/22/2004. In the rejection, the Examiner considered Suzuki's one-bit flag for scalability to be the priorities assigned to video object layers (VOL). The amended Claim 29 requires at least two bits for the priorities. Therefore, it overcomes the rejection.

With the same reason, the proposed amended Claims 34, 39-41, and 43-44 also overcome the rejections to Claims 34, 39-41, and 43-44 under 35 U.S.C. 103(a) based on Suzuki et al. (US patent 6,097,842) in view of Chang et al. (US patent 6,025,877) set forth in Final Rejection mailed on 11/22/2004.

However, the patentability of all the proposed amended claims listed above requires further search and consideration due to the added limitations.

b. The proposed amendments to Claims 29-30 do not overcome the rejections to Claims 29-30 under 35 U.S.C. 103(a) based on the combination of Suzuki et al. (US patent 6,097,842) and ISO/IEC JTC1/SC29/WG11 N1993 publication ("Coding of Moving Pictures and Audio," ISO/IEC JTC1/SC29/WG11 N1993, San Jose, February 1998) set forth in Final Rejection mailed on 11/22/2004. In the rejection, the Examiner did not rely on Suzuki to teach assigning priorities to video object layers (VOL), namely, Suzuki's one-bit flag for scalability is not considered the assigned priorities of VOL.

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The rejection is based on modifying Suzuki's VOL syntax shown in Fig. 35 with Table 7.2.4 of ISO/IEC N1993 to include the flag indicating that priority is specified for the VOL and field of 3-bit specifying the priority, for more flexibility in scalability.

Please note that the "is\_visual\_object\_identifier" and "video\_object\_layer\_priority" of Table 7.2.4 of ISO/IEC N1993 are not used to replace the one-bit flag for scalability (A3) shown in Suzuki's Fig. 35. Table 7.2.4 of ISO/IEC N1993 has similar one-bit flag for scalability shown in line 3 from the bottom of page 4.

The combination teaches replacing the whole VOL syntax shown in Suzuki's Fig. 35 with Table 7.2.4 of ISO/IEC N1993. As a consequence, the replacement also teaches assigning priorities to video object layers (VOL) with three bits.

With the same reason given above, the proposed amendments to Claims 34-35 and 39-44 do not overcome the rejections to Claims 34-35 and 39-44 under 35 U.S.C. 103(a) based on Suzuki et al. (US patent 6,097,842) in view of ISO/IEC N1993 and Chang et al. (US patent 6,025,877) set forth in Final Rejection mailed on 11/22/2004.

2. Please note that Claims 31-33 and 36-38 have been cancelled by the Applicants previously.